

**UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF NEW HAMPSHIRE**

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**ESTATE OF LIKO KENNEY  
PLAINTIFF**

**v.**

**GREGORY WILLIS FLOYD;**

**CHIEF MARK R. MONTMINY,  
IN HIS INDIVIDUAL AND  
OFFICIAL CAPACITIES;**

**SERGEANT MARK TAYLOR,  
IN HIS INDIVIDUAL AND  
OFFICIAL CAPACITIES;**

**CORPORAL BRUCE MCKAY,  
IN HIS OFFICIAL CAPACITY;**

**AND**

**TOWN OF FRANCONIA  
BOARD OF SELECTMEN**

**RESPONDENTS**

**CASE NO:**

**2010 – CV – 00181 – PB**

**MARCH 6, 2011**

**AMENDED PLAINTIFF’S OBJECTION TO RESPONDENTS’ MOTION FOR  
PARTIAL DISMISSAL**

**NOW COMES** the plaintiff Estate of Liko Kenney and pursuant to Local Rule 7.0 et seq. moves this honorable court to deny respondents’ February 8, 2011 Motion For Partial Dismissal of plaintiff’s complaint for the following reasons:

1. Respondents failed to comply with United States District Court For The District of New Hampshire Local Rule 7.1(a)(2), which states that every motion “ shall be accompanied by a memorandum with citations to supporting authorities or a statement explaining why a memorandum is unnecessary (emphases added).” Respondents’ motion does not provide a separate accompanying memorandum of

law in support, nor a separate accompanying statement that no memorandum is required, as Local Rule 7.1(a)(2) clearly requires, but rather incorporates these distinct elements of the Rule in its motion, without a basis in the Rule or other law.

2. Facts stemming from the January 26, 2003 Fox Hill incident referenced in Respondents' Motion For Partial Dismissal are material to the instant complaint and cannot be lawfully divided or dismissed from the complaint without unlawfully denying plaintiff's constitutional, statutory, evidentiary and compensatory rights asserted in the complaint. Pursuant to Local Rule of Procedure 7.1(a)(2) plaintiff filed a February 22, 2011 blank, due to computer failure, Notice of Conventional Filing of video evidence for court consideration of facts not currently in evidence in support of Plaintiff's claims. The disc of the evidence was filed thereafter. Copies were delivered to the parties. A properly filed Notice of Conventional Filing is filed with this Amended Objection.
3. Pursuant to Local Rule of Procedure 7.1(a)(2) plaintiff's memorandum in support of this Opposition motion follows.

**WHEREFORE**, Plaintiff respectfully requests that this court deny respondents' partial motion to dismiss, and grant such other and further relief as may be just and proper.

Respectfully submitted,  
Estate of Liko Kenney,  
By and through Counsel,

Dated: *March 6, 2011*

*/s/ Charles F. O'Leary*

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was forwarded to all counsel of record via ECF and via first class mail to Gregory Floyd at the New Hampshire State Prison, PO Box 14, Concord, NH 03301 on 3-6-11.

*/s/ Charles F. O'Leary*

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Charles F. O'Leary, Esquire  
NH Bar #1910